ARTICLE 15.00 ADMINISTRATION AND ENFORCEMENT

15.01 Organization and Purpose

The administration of this Ordinance is hereby vested in two offices of the government of the City of Gallatin, Tennessee, as follows:

The Office of Zoning Administrator The Board of Zoning Appeals

It is the purpose of this Article to set out the authority of each of these two offices and then describe the procedures and substantive standards with respect to the following administrative functions:

Issuance of Zoning Permit
Issuance of Use and Occupancy Permits
Performance Standards
Variances
Conditional Use Permits
Amendments

15.02 Appointment and Duties of the Zoning Administrator

15.02.010 Zoning Administrator

The duly appointed City Planner for the City of Gallatin shall also serve as the Zoning Administrator.

15.02.020 Duties of the Office of Zoning Administrator

The Zoning Administrator shall enforce this Ordinance, and in addition thereto and in furtherance of said authority he shall:

- A. Issue all zoning permits, and make and maintain records thereof;
- B. Issue all use and occupancy permits, and make and maintain all records thereof;
- C. Conduct inspections of buildings, structures, and use of land to determine compliance with the provisions of this Ordinance;
- D. Maintain permanent and current records of this Ordinance, and subsequent amendments, including, but not limited to, all maps, amendments, conditional uses, variances, appeals and applications therefore;

- E. Provide information to the public on all matters relating to this Ordinance;
- F. Receive, file and forward to all necessary agencies all applications for conditional uses, and for amendments to this Ordinance;
- G. Receive, file and forward to the Board of Zoning Appeals all applications for variances or other matters, on which the Board is required to pass under the provisions of this Ordinance;
- H. Initiate, direct and review, from time to time, a study of the provisions of this Ordinance, and make reports of his recommendations to the Planning Commission at least annually.

15.02.030 Powers of the Zoning Administrator Regarding the Issuance of Permits

The Zoning Administrator shall have the power to grant zoning permits, and make inspections of land and buildings necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plan or issue any zoning permits for any excavation or construction until he has inspected such plans in detail and found them to conform to this Ordinance.

Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance nor to vary its terms and provisions in carrying out his duties.

The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite the violations of contracts such as covenants or private agreements which may occur upon the granting of said permit.

15.02.040 Powers of the Zoning Administrator to Enforce Performance Standards

The Zoning Administrator shall enforce performance standards in accordance with the procedure set forth in Sections 15.04.040 A through 15.02.040 F.

- A. New Construction, or Extension or Enlargement of Existing Uses In all districts where performance standards apply, any request for a zoning permit for manufacturing or other uses shall be accompanied by a certification from a licensed registered Professional Engineer of Tennessee that the proposed activity can meet the applicable performance standards. If the Zoning Administrator has reasonable belief that a violation may occur, despite the opinion of the Engineer then he may:
 - 1. require the submission of additional data sufficient to support the applicant's claim,
 - 2. reject the application, pending receipt of additional supporting data.

B. Intent Concerning Determinations Involved in Administration and Enforcement of Performance Standards - Determinations necessary for administration and enforcement of performance standards set forth in this Ordinance range from those which can be made with satisfactory accuracy by a reasonable person using normal senses and no mechanical equipment to those requiring great technical competence and complex equipment for precise measurement.

Where determinations can be made by the Zoning Administrator or other City employees, using equipment normally available to the City or obtainable without extraordinary expense, such determination shall be made before notice of violation is issued.

Where technical complexity or extraordinary expense make it unreasonable for the City to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be available for causing corrections of apparent violations of performance standards, for protecting individuals from arbitrary, capricious, and unreasonable administration and enforcement of performance standard regulations, and for protecting the general public from unnecessary costs for administration and enforcement.

- C. Performance Standards Relating to Emission of Smoke, Fire, and Explosive Hazards Where Flash Point of Flammable Material Is Known, Humidity, Heat, Glare and Electromagnetic Interference If the Zoning Administrator finds, after making determinations in the manner set forth in Article 14.00 of this Ordinance that there is a violation of performance standards relating to emission of smoke, fire, and explosive hazards where the flash point of flammable materials is known, heat, humidity, glare, or electromagnetic influence, he shall take or cause to be taken lawful action to cause correction to within the limits set by such performance standards. Failure to obey lawful orders concerning such correction shall be punishable as provided in Section 15.08 of this Article.
- D. Performance Standards Relating to Measurements of Particulate Matter, Vibration, Noise, Fire and Explosive Hazards Where Flash Point of Materials is Not Known, Toxic and Noxious Matter, Odorous Matter, and Radiation Hazards If in the considered judgment of the Zoning Administrator there is probable violation of the performance standards set forth in Article 14.00 concerning emission of particulate matter, vibration, noise, fire and explosive hazards where flash point is not known, toxic and noxious matter, odorous matter, or radiation hazards the procedures, in Section 15.08 shall be followed.
- E. <u>Violation of Performance Standards Procedure for Notice and Testing</u> If, in the considered judgment of the Zoning Administrator, there is probable violation of the performance standards as set forth in Article 14.00 concerning emission of particulate matter, vibration, noise, fire, and explosive hazards where flash point of flammable materials is not known, toxic or noxious matter, odorous matter, or radiation hazards the following procedures shall be followed:

- 1. The Zoning Administrator shall give written notice, by registered mail or other means insuring a signed receipt for such notice, to the person or persons responsible for the alleged violation. The notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator within a time limit set by the Administrator. The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the Zoning Administrator within the time limit set constitutes admission of violation of the terms of this Ordinance.
- 2. The notice shall further state that upon request of those to whom it is directed, technical determinations as described in this Ordinance will be made, and that if violations as alleged are found, costs of such determinations shall be charged against those responsible for the violation, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of determination will be paid by the City.

If there is no reply within the time limit set, but the alleged violation is corrected to the satisfaction of the Zoning Administrator, he shall note "violation corrected" on his copy of the notice, and shall retain it among his official records, taking such other action as may be warranted.

3. If there is no reply within the time limit set (thus establishing admission of violation as provided herein and the alleged violation is not corrected to the satisfaction of the Zoning Administrator within the time limit set he shall proceed to take or cause to be taken such action as is warranted by continuation of a violation after notice to cease.

If a reply is received within the time limit set indicating that the alleged violation will be corrected to the satisfaction of the Zoning Administrator, but requesting additional time, the Administrator may grant an extension if he deems it warranted in the circumstances of the case and if the extension will not, in his opinion, cause imminent peril to life, health, or property.

If a reply is received within the time limit set requesting technical determination as provided in this Ordinance, and if the alleged violation continue, the Zoning Administrator may call in properly qualified experts to make the determinations. If expert findings indicate violation of the performance standards, the costs of the determinations shall be assessed against the properties or persons responsible for the violation, in addition to such other penalties as may be appropriate under the terms of Section 15.08 of this Article.

If no violation is found, the costs of the determinations shall be paid by the City without assessment against the properties or persons involved.

F. <u>Violation of Performance Standards for Uses Existing at the Time of Passage of Zoning Ordinance or Amendment</u> - When uses are non-conforming at the time of passage of this Ordinance, or subsequent amendment, and must conform, the Zoning Administrator shall give notice of the fact that the use is non-conforming and prescribe a date for conformance, said date being established in accordance with Section 13.02.040.

The owner of the use may submit a certification from a licensed registered Professional Engineer of Tennessee that the necessary steps have been taken to produce conformance to the performance standards. When the Zoning Administrator has reasonable belief that the non-conformance has not been eliminated, then he may cause tests to be made in accordance with the procedures established in Section 15.02.040 E. When the landowner does not eliminate the non-conformance after its existence has been established, the Zoning Administrator may proceed in accordance with the procedures set forth in Section 15.08 to have the violation corrected.

- G. Power to Make Measurement of Manufacturing or other Uses in Districts Where Performance Standards Apply Not withstanding the foregoing provisions, in any district where performance standards apply, the Zoning Administrator may cause to have made scientific tests of any use to determine its performance characteristics, whether or not a violation exists. The costs of such tests are to be sustained by the City.
- H. <u>Right of Entry Upon Land</u> The Zoning Administrator or persons engaged by him to perform tests or any other duties may enter upon any land within the jurisdiction of the City for the purpose of performing tests, making examinations, or surveys, and placing or removing public notices as may be required by this Ordinance.
 - Conflict with State or Federal Enforcement Where any of the performance standards contained herein are enforced by appropriate state or federal authorities, the Zoning Administrator shall be exempted from such enforcement. However, this shall not be construed as preventing the City of Gallatin from adopting and enforcing stricter standards than federal or state governments if the City so desires.

15.03 Zoning Permits and Use and Occupancy Permits

15.03.010 Zoning Permits Required

No building or other structure shall be erected, moved, added to or structurally altered without a zoning permit issued by the Office of the Zoning Administrator.

Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by any office, department, or employee of the City of Gallatin unless the application for such permit has been examined by the Office of the Zoning Administrator

indicating that the proposed building or structure complies with all the provisions of this Ordinance. Any zoning permit or use and occupancy permit issued in conflict with the provisions of this Ordinance shall be null and void.

15.03.020 <u>Site Plan Required</u>

The City Planner shall require that all applications for permits be accompanied by plans and specifications. With the exception of single family detached dwellings, all such applications shall include a plot or site plan showing the information as required below, which shall be approved by the Planning Commission prior to the issuance of the permit.

The following applications shall require plans and specifications to be submitted to and approved by the City Staff and may not require Planning Commission approval. The City Staff may require any additional information deemed necessary to determine compliance with City Ordinances.

A. Site improvements or building additions that:

- 1. Are 10% or less in scope or area and,
- 2. Do not exceed 5,000 square feet of building area and,
- 3. Do not exceed one such addition in any 12 month period.

B. Change in use of a building(s) or site(s) that:

- 1. Do not require building additions or site improvements and,
- 2. Are permitted uses in the zoning district in which the proposed changes are Located.

C. Residential Buildings or Other Residential Structures Involving Four Units or Less Located on a Single-Zone Lot

The plot plan of any residential buildings or other structures of residential activity with ten (10) dwelling units or less on a zone lot excepting single-family attached dwellings as described in Section 03.05 shall indicate:

- 1. The actual shape, location, and dimensions of the lot;
- 2. The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot;
- 3. The existing and intended use of the lot and of all such building or other structures upon it, including the number of dwelling units the building is intended to accommodate;

4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

D. All Other Buildings, Structures, and Activities

The site plan for all other buildings, structures, and activities shall include:

- 1. The actual shape, location, and dimensions of the lot;
- 2. The shape, size, and location of all buildings or other structures to be erected, altered or moved, and of any building or other structure already on the lot;
- 3. The existing and intended use of the lot and of all such building or other structures upon it, including the number of dwelling units the building is intended to accommodate;
- 4. Topographic features (contours not greater than 5 foot intervals);
- 5. Location of all proposed driveways and entrances as well as existing driveways and entrances on surrounding lots;
- 6. Location of all accessory off-street parking areas to include a plot plan showing design and layout of such parking facilities where five or more accessory off-street parking spaces are to be provided;
- 7. Location of all accessory off-street loading berths;
- 8. Location of open space;
- 9. Proposed ground coverage, floor area, and building heights;
- 10. Position of fences and walls;
- 11. Materials to be used on building facades and fences;
- 12. Position of screen planting (type of planting specified);
- 13. Location of windows and courts;
- 14. Location, type, and size of proposed signs;
- 15. Proposed means of surface drainage, including drainage calculations and details of the proposed drainage facilities;
- 16. Location of all easements and rights-of-way;
- 17. Certification of compliance with applicable performance standards;
- 18. Location of areas subject to flooding;
- 19. Percolation tests where subsoil sewage disposal is anticipated;
- 20. Show required yards, setbacks, and bufferyards;
- 21. Label zoning for property and surrounding properties;
- 22. Location, type, and size of proposed waste material collection facility, including bulk container, concrete pad, and opaque enclosure for other than City of Gallatin refuse containers.
- 23. Nine (9) copies of the site plan. Applicants preparing a site plan using Computer Aided Drafting and Design (CADD) shall be required to submit a digital file of the approved site plan.

15.03.021 Site Plan Voided

A site plan shall become null and void after a period of five (5) years if no construction activity has been initiated based on the approved site plan. Construction activity does not

include grading or excavation. For any site plan approved prior to the adoption of this ordinance, the five (5) year time period shall begin on the day of adoption of this ordinance

15.03.030 <u>Use and Occupancy Permit Required</u>

No building or addition thereto, constructed after the effective date of this Ordinance, and no addition to a previously existing building shall be occupied, and no land shall be used for any purpose, until a use and occupancy permit has been issued by the Office of the Zoning Administrator. No change in a use other than that of a permitted use shall be made until a use and occupancy permit has been issued by the Zoning Administrator. This shall not apply to single-family and two-family detached dwellings.

15.03.040 Application for Use and Occupancy Permit

Every application for a zoning permit shall be deemed to be an application for a use and occupancy permit. Every application for a use and occupancy permit for a new use of land where no zoning permit is required shall be made directly to the Office of the Zoning Administrator.

15.03.050 Issuance of Use and Occupancy Permit

The following shall apply in the issuance of any use and occupancy permit.

A. Permits Not To Be Issued

No use and occupancy permit shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with the provisions of this Ordinance.

B. Permits for New Use of Land

No land heretofore vacant shall hereafter be used or an existing use of land be hereafter changed to a use or activity of a different class or type, unless a use and occupancy permit is first obtained for the new or different use.

C. Use and Occupancy Permits for Existing Buildings

Use and occupancy permits may be issued for existing buildings, structures or parts thereof, or existing uses of land, if, after inspection, it is found that such buildings, structures or parts thereof, or such use of land, are in conformity with the provisions of this Ordinance.

D. Temporary Use and Occupancy Permits

Nothing in this Ordinance shall prevent the issuance of a temporary use and occupancy permit for a portion of a building or structure in process of erection or alternation, provided that such temporary permit shall not be effective for a time period in excess of six (6) months, and provided further that such portion of the building, structure, or premises is in conformity with the provisions of this Ordinance.

E. Permits for Dwelling Accessory Buildings

Buildings accessory to dwellings shall not require separate use and occupancy permits but may be included in the use and occupancy permits for the dwelling when shown on the plot plan and when completed at the same time as such dwelling.

15.03.060 Records of Use and Occupancy Permits

A record of all use and occupancy permits issued shall be kept on file in the Office of the Zoning Administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

15.03.070 Final Inspection

No use and occupancy permit for a building, structure or an addition thereto, constructed after the effective date of this Ordinance, shall be issued until construction has been completed and the premises inspected and certified by the Office of the Zoning Administrator to be in conformity with the plans and specifications upon which the zoning permit was based and with the applicable performance standards established by Article 11.00 and Article 13.00.

15.03.080 Performance Bond Required

Any application for a zoning permit, or building permit which requires submission of a site plan shall be accompanied by a performance bond in the amount of the estimated cost of site improvements including but not limited to water and sewer installation, parking lot and driveway paving, construction of border barriers, screening, and landscaping, such bond may be in form of cash, certified check, certified letter of credit, surety bond, or a smaller bond to embrace the cost of the unfinished work or the City may, under a contractual agreement with the developer, withhold the use and occupancy of said property until all improvements are completed. In the event some unforeseen delay, such as strikes, bad weather, or other external factors become involved, the developer may petition the City for an extension of time for completion of the improvements, such extension to be supported by an affidavit of the developer.

15.04 The Board of Zoning Appeals

- 15.04.10 Herein and hereafter, any reference to Board or Board of Zoning applies equally to the Regional Board of Zoning Appeals.
- 15.04.020 <u>Creation of the Board of Municipal and Regional</u>
 Board of Zoning Appeals Membership and
 Appointment
- A. The Municipal Board of Zoning Appeals shall have jurisdiction only within the corporate limits of the City of Gallatin and shall consist of five (5) members, who shall all be residents of the City of Gallatin at the time of their appointment and who shall continue to reside within the City corporate limits as long as they serve. At least one of the members of the Municipal Board of Zoning Appeals shall be a member of the Gallatin Municipal Planning Commission.
- B. The Regional Board of Zoning Appeals shall have jurisdiction only outside the corporate limits of the City of Gallatin and within the Gallatin planning region and shall consist of five (5) members, three (3) of whom shall be residents of the Gallatin planning region and live outside the City corporate limits, and two (2) of whom shall be residents of the City of Gallatin within the corporate limits. All such residency requirements shall be met at the time of appointment and shall be required to continue as long as any member serves. At least one (1) of the members of the Regional Board of Zoning Appeals shall be a member of the Gallatin Regional Planning Commission.
- C. All members of the Municipal Board of Zoning Appeals and Regional Board of Zoning Appeals shall be appointed by the Mayor within ten (10) days after notification to the Mayor of a vacancy on either Board and confirmed by a majority vote of the Aldermen by resolution.

15.04.021 Terms of Office

The members of the respective Boards of Zoning Appeals shall serve for five (5) year terms or until their respective successors are appointed and qualified, except that the Board first appointed shall serve respectively for the following terms:

One for one year, one for two years, one for three years, one for four years, and one for five years.

15.04.022 Quorum and Attendance

A. The presence of three (3) members shall constitute a quorum and the concurring vote of a majority of the members of the Board present shall be necessary to deny or grant any application before the Board. Any member who, voluntarily or involuntarily, is absent for three (3) consecutive special and/or regular meetings shall forfeit said position as a member of the Board and be automatically terminated.

15.04.023 Advisory Opinion by Planning Commission

A. The Gallatin Municipal/Regional Planning Commission shall be permitted to submit an advisory opinion of any matter before the Board and such opinion shall be made a part of the record of such public hearing.

15.04.024 Powers of the Board

The Board is hereby vested with the powers to:

- A. Hear and decide appeals from any order, requirement, decision, or determination made by the Zoning Administrator in carrying out the enforcement of this Ordinance, whereby it is alleged in writing that the Zoning Administrator is in error or has acted in an arbitrary manner;
- B. Hear and act upon application for variances in accordance with Section 15.05 of this Article to alleviate hardships by virtue of the inability of the landowner to comply strictly with the provisions of this Ordinance by reasons of unique shape, topography, or physical features of the zone lot;
- C. Hear and act upon applications for conditional use permits in the manner and subject to the standards set out in Section 15.05 of this Article;
- D. Hear and decide all matters referred to it on which it is required to act under this Ordinance;
- E. Within its budget appropriation and other funds at its disposal, enter into contracts for such services as it may require.

15.04.025 Election of Officers

The Board shall elect from its members its own chairman, vice-chairman, and secretary who shall serve for one (1) year and may upon reelection serve succeeding terms.

15.04.026 Conflict of Interest

Any members of the Board who shall have a direct or an indirect interest in any property which is the subject matter of or affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden for revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for immediate removal from the Board for cause.

15.04.027 Meetings of the Board

Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper public notice of such meetings shall be given.

15.04.028 Rules and Proceedings of the Board

The Board shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- A. No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be a legal notice published in a newspaper of general circulation in Gallatin at least ten (10) days before the date set for a public hearing and written notice of the hearing of an appeal be sent by mail to the appellant and all directly affected property owners at least ten (10) days before the hearing of an appeal. The notice to the appellant shall be sent by registered mail. No appeal shall be considered and heard by the Board unless such appeal shall have been filed at least fifteen (15) days prior to the meeting at which it is to be heard;
- B. The Board may call upon any other office or agency of the city government for information in the performance of its duties and it shall be the duty of such other agencies to render such information to the Board as may be reasonably required;
- C. The Gallatin Regional Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of such public hearing;
- D. Any officer, agency, or department of the City of Gallatin or other aggrieved party may appeal any decision of the Board to a court of competent jurisdiction as provided for by state law;
- E. In any decision made by the Board on a variance the Board shall:
 - 1. Indicate the specific section of this Ordinance under which the variance is being considered, and shall state its findings beyond such generalities as "in the interest of public health, safety and general welfare".
 - 2. In cases pertaining to hardship, specifically identify the hardship warranting such action by the Board;
- F. Any decision made by the Board on a conditional use permit shall indicate the specific section of this Ordinance under which the permit is being considered and shall state its findings beyond such generalities as "in the interest of public health,

safety and general welfare", and shall state clearly the specific conditions imposed in granting such permit;

- G. Appeals will be assigned for hearing in the order in which they appear on the calendar thereof, except that appeals may be advanced for hearing by order of the Board, good and sufficient cause being shown;
- H. At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

15.04.029 <u>Stay of Proceedings</u>

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certified to the Board, after such notice of appeal shall have been filed, that by reason of facts stated in the certificate such, stay would cause imminent peril to life or property. In such instance the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the Zoning Administrator, and on due cause shown.

15.04.030 Liability of Board Members, Zoning Administrator and Employees

Any Board member, Zoning Administrator, or other employee charged with the enforcement of this Ordinance, acting for the City of Gallatin in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability and shall be held harmless by the City of Gallatin of any damage that may accrue to persons or property as the result of any act required or permitted in the proper discharge of their duties. Any suit brought against any Board member, Zoning Administrator or employee charged with the enforcement of any provision of this Ordinance shall be defended by legal representative furnished by the City of Gallatin until the final termination of such proceedings.

15.04.031 Right to Entry Upon Land

The Board, its members, and employees, in the performance of its work, may enter upon any land within -its jurisdiction and make examinations and surveys and place or remove public notices as required by this Ordinance.

15.05 Zoning Variances

The Board of Zoning Appeals may grant variances where it makes findings of fact based upon the standards prescribed in this section.

15.05.010 Application for Variances, Notice of Hearing, Fee

A written application for a variance shall be filed with the Board by the property owner or his designated agent on forms provided by the Board and the application shall contain information and exhibits as may be required under Section 15.03.020 D. No more than 60 days after the filing of the application, a hearing shall be held on the application, unless otherwise withdrawn or postponed by written request by the applicant. Notice of hearing shall be in accordance with Section 15.04.080. A fee of \$25.00 payable to the City of Gallatin shall be charged to cover partial review and processing of each application for a variance, except that the fee shall be waived for a governmental agency.

15.05.020 Notice to Affected Property Owners

It shall be the general rule of the Board that reasonable efforts shall be made to contact and notify interested parties, who in the opinion of the Board, may be affected by any matter brought before the Board. In all cases all owners of record of adjoining property, including those separated by a public way from the premises in question shall be notified. The notification required to meet this provision shall be accomplished by direct mail addressed to the respective owners at the address given in the latest assessment roll.

15.05.030 Standards for Variances

The Board shall not grant a variance unless it makes findings based upon evidence presented to it as follows:

- A. The particular physical surroundings, shape, topographic conditions of the specific property involved that would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this Ordinance were carried out must be stated;
- B. The conditions upon which the petition for a variance is based would not be applicable, generally, to other property within the same district;
- C. The variance will not authorize activities in a zone district other than those permitted by this Ordinance;
- D. Financial returns only shall not be considered as a basis for granting a variance;
- E. The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance;
- F. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same districts;

- G. The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure;
- H. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located; and
- I. The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the area.

15.05.040 Non-conformity Does Not Constitute Grounds for Granting of a Variance

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

15.05.050 Prohibition of Use Variances

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

15.05.060 <u>Conditions and Restrictions by the Board</u>

The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the provisions set out in Section 15.05.030 to reduce or minimize the injurious effect to such variation; upon surrounding property and better carry out the general intent of this Ordinance. The Board may establish expiration dates as a condition or as a part of the variances.

15.05.070 <u>Board has Powers of Administrative Official on Appeals; Reversing</u> Decision of Administrative Official

In exercising its powers, the Board of Appeals may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

15.05.080 Variance Appeals

Any person including any agency of the city government aggrieved by a decision of the Board on a variance may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this Article shall be final and subject to review only for illegality or want of jurisdiction.

15.06 Conditional Use Permits

15.06.010 Conditional Uses

The Board of Appeals may hear and decide, in accordance with the provisions of this Ordinance, requests for conditional use permits. For the purposes of administration of this Ordinance, conditional uses shall be construed as synonymous with special exceptions, as controlled by Sections 13-706, <u>Tennessee Code Annotated</u>.

15.06.020 Application for Conditional Use Permit, Notice of Public Hearing

The application for a conditional use permit shall be made by the property owner or his designated agent and filed in writing with the Board on forms provided by the Board, and shall contain information and exhibits as may be required under Section 15.03.020 or in the case of buildings or other structures or uses to be located within floodplain districts, as may be required by Section 10.03. Not more than 60 days after filing such application, a hearing shall be held on the application, unless otherwise withdrawn or postponed upon written request by the applicant. Notice of hearing shall be held in accordance with Section 15.04.080 B. A fee of \$25.00 payable to the City of Gallatin shall be charged to partially defray cost of review and processing for each application for a conditional use permit, except that the fee may be waived for any government agency.

15.06.030 Requirements for Conditional Use Permit

General requirements are hereby established which shall apply to all applications for conditional use permits, and specific standards listed shall apply to the issuance of a conditional use permit as appropriate. The Board may impose such other conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to comply with the provisions set out in Section 15.06.040 through 15.06.070 C in order to reduce or minimize the injurious effect of such conditional use upon and ensure compatibility with surrounding property and to better carry out the general intent of this Ordinance. The Board may establish expiration dates for the expiration of any conditional use permit as a condition of approval.

15.06.040 General Requirements

A conditional use permit shall be granted provided the Board finds that it:

- A. Is so designed, located, and proposed to be operated so that the public health, safety and welfare will be protected;
- B. Will not adversely affect other property in the area in which it is located;
- C. Is within the provisions of "Conditional Uses" as set forth in this Ordinance; and

D. Conforms to all applicable provisions-of this Ordinance for the district in which it is to be located and is necessary for public convenience in that location.

15.06.050 Specific Standards for Community Facility Activities

In addition to the requirements of the applicable district and the general requirements set forth above, a conditional use permit shall be granted for the community facility activities specified in Sections 15.06.050 A through 15.06.050 G when the standards established are met as part of the condition for issuing the permit in the applicable zone districts.

A. Special Conditions for Limited Day Care Facility

- 1. In the CC, PGC, PNC, MRO, CS, MU, and CG Zoning Districts the lot size, setbacks, and lot coverage shall conform to those applicable to the Zoning District. In the Agricultural, R-40, R-20, R-15, R-10, and R-6 Zoning Districts no such facility shall be permitted on a zone lot unless it contains twice the lot area requirements of the Zoning District.
- 2. All other bulk regulations of the district shall be met.
- 3. One accessory off-street parking space for each five persons accommodated in the day care facility shall be provided.
- 4. Special passenger loading and unloading facilities shall be provided on the same zone lot for vehicles to pick-up or deliver passengers. Such facilities shall provide for driveways that do not require any back-up vehicle movements to enter or exit the zone lot.
- 5. All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Department of Water and Sewerage Services.
- 6. All regulations of the State of Tennessee that pertain to the use shall be met.
- 7. The facility shall be located so as to be compatible with the surrounding area and provide safety to those using the facility.
- 8. Fencing, screening, and landscaping shall be provided as appropriate to protect the surrounding area for such facility.
- 9. Upon the approval by the Board of Appeals, the site and architectural plans for such a facility shall be approved by the Planning Commission taking into account the above condition as well as any other pertinent factors.

B. Special Conditions for Nursing Homes

- 1. No such facility shall be permitted on a zone lot unless it contains a minimum of 10,000 square feet, or twice the lot area requirements of the zone district.
- 2. All bulk regulations of the district shall be met.
- 3. The requirements of the accessory off-street parking regulations of this Ordinance in Article 11.00 shall apply.
- 4. All regulations of the State of Tennessee shall be met.
- 5. All public utilities and sewage disposal shall be available to the site, and shall be subject to approval by the Department of Water and Sewerage Services. Upon approval by the Board of Appeals the site and architectural plans for such a facility shall be approved by the Planning Commission taking into account the above condition as well as any other pertinent factors.

C. Special Conditions for Community Assembly

- 1. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the districts; provided, however, that if such community assembly includes outdoor activities the minimum lot area shall be four (4) acres.
- 2. All bulk regulations of the zone district shall apply.
- 3. Off-street parking;
 - (a) For non-profit clubs, lodges, meeting halls and recreation centers, one space for each four (4) seats in an assembly area within the facility, or one (1) space for each 75 square feet of gross floor area, whichever is greater, shall be provided.
 - (b) For temporary non-profit festivals, the required number of off-street parking spaces shall be determined by the Zoning Administrator, taking into account the traffic generation of such facility, the hours of other such factors as affect the need for off-street parking.
- 4. Except for temporary non-profit festivals, fencing, screening and landscaping shall be provided as appropriate for such facility, except that no landscaped screen shall be located closer than 15 feet of any vehicular entrance or exit to the property.
- 5. The location and operation of such community assembly facility shall be in keeping with the character of the surrounding area and shall not adversely affect the properties within the surrounding area.

6. All public utilities and sewage disposal shall be available to the site and shall be subject to approval by the Department of Water and Sewerage Services.

D. Special Conditions for Non-assembly Cultural

- 1. No such activity shall be permitted on a zone lot unless it contains twice the lot area requirements of the zone district.
- 2. All bulk regulations of the zone district shall apply.
- 3. The off-street parking requirements of this Ordinance in Article 11.00 shall apply.
- 4. Fencing, screening, landscaping shall be provided as appropriate to protect the surrounding area.
- 5. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse affect on the properties within the surrounding area.

E. Special Conditions for Health Care

1. Minimum Lot Area

- (a) No health clinic shall be permitted on a zone lot unless it contains 10,000 square feet, or twice the lot area requirements of the district, whichever is greater.
- (b) No hospitals, or centers for observation or rehabilitation shall be permitted on a zone lot unless it contains a minimum of five (5) acres.

2. <u>Hospitals, Centers for Observation or Rehabilitation</u>

The minimum side and rear yards for hospitals and centers for observation or rehabilitation shall be 50 feet for a one or two story building, increased by five (5) feet for each story above two (2).

- 3. All other regulations of the zone district shall apply.
- 4. There shall be provided along the entire site boundary fencing, screening, and landscaping as appropriate to protect the surrounding residential area.
- 5. The location and operation of such facility shall be in keeping with the character of the surrounding area and shall not have an adverse effect on the properties within the surrounding area.

- 6. All public utilities and sewage disposal shall be available to the site and shall be approved by the Department of Water and Sewage Service.
- 7. Upon approval of the Board of Appeals the site and/or architectural plans shall be reviewed and considered for approval by the Planning Commission.
- 8. The following activity classes and types may be permitted accessory to the Health Care Activities provided they appropriately complement the Health Care Activity, will not impose an adverse impact on the surrounding land use, and be subject to all other provisions of the zoning district:

Community Facility Activities Commercial Activities Convenience Sales and Services Automotive Parking Food Service Medical Service

F. Special Conditions for Utility and Vehicular

- 1. The location of such facility shall be within a certain service area in order to provide the most efficient service to such area.
- 2. All of the bulk regulations of the zone district shall apply.
- 3. The location of such facility shall not materially increase traffic on surrounding streets.
- 4. The location of such facility shall not have an adverse effect on surrounding properties.
- 5. There shall be provided along the entire site boundary fencing, screening, and landscaping as appropriate to protect the surrounding residential area.

G. Special Conditions for Intermediate and Extensive Impact

- 1. The location, size, and design of such facilities shall be such that the proposed development shall be compatible with the surrounding area, thus reducing the impact upon the surrounding area.
- 2. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets.
- 3. The proposed facility shall provide a basic community function or essential service necessary for a convenient and functional living environment in order to be located on the proposed site.

4. The off-street parking requirements shall be based upon a recommendation from the Planning Commission.

H. Special Conditions for Place of Worship

- 1. No such facilities shall be permitted on a zone lot unless it contains twice the lot area requirements of the district except those facilities proposed in R40 and A districts where the minimum district lot size shall apply.
- 2. The location, size, and design of such facilities shall be situated so that the proposed facility shall be compatible with the development within the surrounding area thus reducing the impact upon such area.
- 3. Such facilities shall be located only on major or collector streets as shown on the official major thoroughfare plan.
- 4. All bulk regulations of the district shall be met.
- 5. The off-street parking requirements of this Ordinance in Article 11.00 shall apply.

I. Special Conditions for Community Education

- 1. No such facilities shall be permitted on a zone lot unless such lot contains the acreage recommended for such facilities by the appropriate state agency.
- 2. The traffic generated by such facility shall be safely accommodated along the streets which will provide access to the site.
- 3. The location and design of such facilities shall not have an adverse effect upon surrounding properties.
- 4. The off-street parking requirements of this Ordinance in Article 11.00 shall apply.

J. Special Conditions for Animal Care Activities in Agricultural Districts

- 1. The lot regulations of the district shall apply.
- 2. The operation of such facility shall not have an adverse effect on the properties in the surrounding area.
- 3. Insect, rodent, and odor control measures shall be provided to the satisfaction of the Board of Appeals.
- 4. Any outdoor pens or holding areas shall be appropriately screened.

5. The off-street parking requirements in this Ordinance in Article 11.00 shall apply.

15.06.060 Specific Standards for Commercial Activities

A conditional use permit shall not be granted for the commercial activities specified in Sections 15.06.060 A through 15.06.060 G unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable districts.

A. Special Conditions for Automotive Parking in CC Districts

- 1. All parking shall be on the surface of the lot,
- 2. No structure shall be permitted other than a shelter for the attendant and accessory business signs as permitted under this Ordinance,
- 3. Such permit shall not be issued for a period exceeding five years, and

B. Special Conditions for Scrap Operation Activity in IG Districts

- 1. The location and topography of the site shall be situated so that fencing, screening, and landscaping can be provided as appropriate.
- 2. The bulk regulations and performance standards of this Ordinance shall apply.
- 3. Insect and rodent control measures shall be provided as approved by the County Health Department.
- 4. All required fences and landscaped screens shall be maintained in a neat and attractive manner.
- 5. The operation of such facility shall not have an adverse effect on the properties in the surrounding areas.
- 6. The operation and location of such facility shall not produce damaging pollution to surrounding streams.

C. Special Conditions for Group Assembly Limited and Extensive Activities

- 1. The location, size, and design of such facilities shall be situated so that the proposed development shall be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area,
- 2. The traffic generated by such facility shall be safely accommodated along major streets without traversing local minor streets,
- 3. The off-street parking requirements shall be based on a recommendation from

the Planning Commission, and

D. <u>Special Conditions for Convenience Food Sales and Food Service in MPO Zones</u> - These uses shall be considered as incidental services to serve occupants and patrons of the permitted use only. Such activities shall be conducted in spaces which are designed as integral parts of the principal use.

E. Special Conditions for Limited Warehousing

- 1. The location, size, and design of such facility shall be compatible with development in the surrounding area.
- 2. There shall be provided along the entire site boundary fencing, screening, and landscaping, as appropriate to protect adjoining properties.
- 3. The use of buildings in which the exterior facade is comprised of metal construction or metal siding shall be prohibited. Buildings facades visible from a street or residential area shall be designed according to the provisions of Section 13.08 of this Ordinance, and shall be constructed primarily of brick, or stone, or combinations thereof, or combinations of materials deemed acceptable by the Board. Building facades not visible from a street or residential area may be constructed of aluminum siding, vinyl siding, or fiber cement siding. Building materials used in the construction of the units shall not contain bright, vivid colors. The use of primary, secondary or other bright, bold colors on building facades, roofs, doors, window frames, or awnings shall be prohibited. Colors used in the development shall be subdued, with natural earth tones and colors compatible with surrounding development predominating.
- 4. The off-street parking requirements shall be based upon a recommendation from the Planning Commission. All parking areas and driveways shall be paved.
- 5. All buildings shall be separated by a minimum of thirty (30) feet.
- 6. The setback for such activities shall be 100 feet from a major thoroughfare.

F. Special Conditions for Convenience Sales and Services Commercial Activities

- The location, size, and design of such facilities shall be situated such that the
 proposed development shall be compatible with the existing development of the
 surrounding area, thus reducing the impact upon the surrounding area.
 Convenience Sales and Service structures should be designed to be compatible
 with the character of residential structures in the surrounding area. Scale of
 materials and building forms are important elements of continuity.
- 2. In order to determine compatibility, the applicant shall provide information concerning building design and materials, including elevations of all sides of the

- proposed buildings and structures. The features shown in the elevations shall include information concerning building materials, heights, scale, door and window openings, façade offsets, roof pitch and colors.
- 3. The design of such facilities shall comply with the requirements of Section 13.08, Architectural Character and Compatibility Standards and shall be based on a recommendation of the Planning Commission. In addition, the following architectural standards shall apply:
 - a. Building height and design shall be in keeping with the character and scale of the proposed development.
 - i. Building colors should be subdued, with natural earth tones and colors compatible with surrounding development predominating.
 - ii. Building rooflines and pitches should be comparable to typical residential roofline styles. To harmonize with residential structures, convenience sales and service structures should have roofs that are visible from the street, preferably with a pitch not less than 1-foot rise in 2-foot run. Roofs should be a dark earth tone in color.
 - b. Canopy height and design shall be in keeping with the character and scale of the proposed development. The canopies should have pitched rooftops compatible with the design of the proposed building(s).
 - c. Canopies over gas pumps shall use colors and materials that blend with proposed and surrounding building facades. The use of earth tones or dark colors is encouraged.
 - d. The use of primary, secondary or other bright, bold colors on building facades, canopies and awnings should be avoided.
 - e. Heating and cooling equipment, solid waste disposal equipment and facilities and mechanical equipment and facilities shall be adequately screened so as not to be visible from streets and adjacent properties. In addition, mechanical equipment placed on rooftops should be concealed from view from public streets and adjacent properties.
- 4. The number of gasoline pumps, if any, permitted with this use shall be based upon a recommendation from the Planning Commission. In making this determination the Planning Commission shall consider the location, size, and design of such facilities so that the proposed development will be compatible with the development within the surrounding area, thus reducing the impact upon the surrounding area.
- 5. The off-street parking requirements shall be based on a recommendation from the Planning Commission.

15.06.060 G Special Conditions for Automotive Repair and Cleaning and Automotive Servicing Commercial Activities

1. The location, size, and design of such facility shall be compatible with

development in the surrounding area. Buildings shall be designed in accordance with Section 13.08 of this Ordinance.

- 2. There shall be provided along the entire site boundary fencing, screening, and landscaping, as appropriate to protect adjoining properties.
- 3. All of the bulk regulations of the zone district shall apply.
- 4. All activities associated with the use shall be conducted within completely enclosed buildings except for required parking, loading, exterior storage, and other accessory uses which by their nature must necessarily exist outside a building.
- 5. Outdoor storage of motor vehicles and other materials shall be screened from public view, and may be permitted in the side and rear of the principal building. The location, extent, and screening of the outdoor storage area shall be approved as a part of the site plan by the Planning Commission. The outdoor storage shall be screened from public view using a combination of appropriate fencing, walls, hedges, or landscaping materials, not exceeding ten (10) feet in height with the stored materials to be kept at least two (2) feet below the top of such screen.
- 6. The off-street parking requirements shall be based upon a recommendation from the Planning Commission.

15.06.070 Specific Standards for Agricultural and Extractive Activities

A conditional use permit shall not be granted for the agricultural and extractive activity specified in Section 15.06.070 A or 15.06.070 C unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

A. <u>Special Conditions for Plant Nursery in A Districts</u> - The Board of Appeals shall prescribe the number of accessory off-street parking spaces that will adequately service the activity.

B. Special Conditions for Mining and Quarrying Activity

- 1. The location of such an activity shall be in an area sparsely developed during the length of time the mining or quarrying activity is anticipated,
- 2. Any permit issued hereunder shall be based on a site plan or other documents submitted with an application which shall provide for the following:
 - (a) Existing contours of the site and up to 100 feet beyond the site boundary. Contour intervals shall be at 2 foot intervals
 - (b) Location of the area in which the proposed quarrying activity is to be conducted.

- (c) Location of all proposed buildings, crusher and screening equipment, roadways and other facilities proposed on the site.
- (d) Proposed method of drainage of the quarry area.
- (e) Proposed fencing of the quarry area. Fencing shall be provided around all open excavations.
- (f) Methods proposed for blasting. Open blasting commonly referred to as "pop shots" shall be prohibited.
- (g) Methods proposed to control noise, vibration and other particulate matter in order to meet the performance standards as set out in this Ordinance.
- (h) Finished contours of the site after the quarrying operation has been terminated. The site shall be graded and/or filled so as to be in substantial conformity with the topography of the surrounding lands. All fill material shall be non-toxic, nonflammable, and non-combustible solids. All areas that are back-filled shall be left so that adequate drainage is provided.
- 3. Approval for Mining and Quarrying Activity may also include accessory Concrete Batching Plants, Asphaltic Cement Mixing Plants and/or Rock Crushing activities on the same zone lot or adjoining zone lots which may have directly opposing frontages on the same public street. If such accessory activities are included on the quarry site, the total site must meet all the special condition requirements for Mining and Quarrying Activities; however, in conditions of multiple zone lots, the outer perimeter of the site shall be considered the lot line.
- 4. Before issuing a permit the Board shall require the owner of the quarry facility to execute a bond not less than six hundred (\$600) or more than one thousand dollars (\$1,000) per acre of active quarry throughout a five year period to restore the lands in the manner prescribed herein, including the removal of all structures and machinery.
- 5. Any permit issued hereunder shall not be for a period exceeding five years. After the expiration date of such special permit, the Board may review and grant an extension of time in the manner and procedure as prescribed for an original application, and

C. Special Conditions for Commercial Storage of Explosives

- 1. The location of such an activity is in an area likely to be sparsely developed for reason of topography, lack of existing or planned utilities, accessibility or for similar cause.
- 2. Such facility shall not be located on a site having an area of less than 50 acres.

- 3. All regulations of the State Fire Marshall and the Gallatin Fire Department relating to the storage of explosives shall be met.
- 4. Any special permit issued hereunder shall be for a period not exceeding 5 years. After the expiration date of such special permit, the Board may review and grant an extension of time in the same manner and procedure as prescribed for an original application.

15.06.080 Specific Standards for Residential Activities

A conditional use permit shall not be granted for the residential activities specified below unless the standards established therein are met as a part of the conditions for issuing such permit in the applicable zone districts.

- A. Special Conditions for Multi-family Dwelling and Mobile Home Park Activities In addition to the standards contained in this Ordinance, for these type developments, the Board of Appeals shall specifically find that there will be no adverse impact upon adjoining properties or the neighborhood in which such use is proposed. In making this finding, the Board shall consider the effect upon traffic congestion, overcrowding of schools, availability of necessary public utilities, and suitability of the site for the use, and such other factors as the Board may deem necessary.
- B. Special Conditions for a Mobile Home A mobile home may be permitted on an individual lot where in the opinion of the Board such use would not be detrimental to other adjoining uses. In making this determination the Board shall consider the relative closeness of structures, the overall character of the neighborhood, and the type (e.g. single-wide, double-wide) and appearance of the mobile home. Any mobile home permitted shall be set upon concrete blocks or steel piers which are constructed upon a concrete footing, and each mobile home shall be anchored with approved anchors. Foundation plants and landscaping shall be required. Mobile homes shall be skirted and have permanent steps with handrails at each door.

No mobile home shall be permitted on a lot with another mobile home or conventional house.

C. Special Conditions for Bed and Breakfast Homes

- 1. Bed and Breakfast Home uses may be permitted in the R-10 and R-15 Zoning Districts only if they are located within a Historic District or the home itself is listed on National Register of Historic Homes.
- 2. If the Bed and Breakfast Home is a historic structure or is located in a historic district, then the proposed Bed and Breakfast Home must first receive approval from the local Historic District Commission.

- 3. Parking: Required parking shall be determined by the Board of Zoning Appeals. In making this determination, Board shall take into consideration the number of rooms or units, the type of street that fronts the Bed and Breakfast Home, the character of surrounding area and any other factors the Board may wish to consider.
- 4. No Bed and Breakfast Home is permitted within 1000 feet of another Bed and Breakfast Home or any similar use.
- 5. The Tennessee Department of Environment and Conservation and/or the Board of Zoning Appeals shall have the right to inspect the property at any time and either may revoke the license or conditional use permit if the site is found below standards set forth. Revocation of State license or permit shall be automatic revocation of conditional use permit.
- 6. Fire alarms and smoke detectors shall be installed in each sleeping unit.
- 7. The owner of a Bed and Breakfast Home shall register with the City Recorder's Office the owner's name, home address, business address and phone number.
- 8. The owner or managing agent of a Bed and Breakfast Home shall be required to reside on the premises of the Bed and Breakfast Home.

15.06.090 Specific Standards for Floodway and Flood-Fringe Districts

A conditional use permit shall not be granted for any use requiring such a permit until the Board of Appeals has:

- A. Reviewed the contents of the plan required by Section 10.03;
- B. Made such determinations as required by Section 10.03 where necessary;
- C. Considered all relevant factors specified in Section 15.06.090 E below; and
- D. Attached such conditions, as listed in Section 15.06.090 F, as it deems necessary for the protection of the public health, safety and welfare.
- E. <u>Factors Upon Which the Decision of the Board shall be Based</u> In its review of any conditional use proposed for location within any area subject to flood, the Board shall consider all relevant factors specified in Section 10.03 of this Ordinance, and;
 - 1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - 2. The danger that materials may be swept on to other lands or downstream to the injury of others.

- 3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- 4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- 5. The importance of the services provided by the proposed facility to the community.
- 6. The requirements of the facility for a waterfront location.
- 7. The availability of alternative locations not subject to flooding for the proposed use.
- 8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- 9. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- 10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- 11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.
- 12. Such other factors which are relevant to the purpose; of this Ordinance.
- F. <u>Conditions Attached to Conditional Uses</u> Upon consideration of any conditional use proposed for location within any area subject to flood, the Board may attach such conditions to the granting of such use as it deems necessary to further the purposes of this Ordinance. Among such conditions, without limitations because of specific enumeration, may be included:
 - 1. Modification of waste disposal and water supply facilities.
 - 2. Limitations of periods of use and operation.
 - 3. Imposition of operations controls, sureties, and deed restrictions.
 - 4. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
 - 5. Flood proofing measures such as those set forth in Section 10.03.

15.06.100 <u>Conditional Use Permit Appeals</u>

Any person or agency of the city government may appeal to a court of competent jurisdiction from the Board's decision as provided under statutes of the State of Tennessee. The judgment and findings of the Board on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this chapter shall be final, and subject to review only for illegality or want of jurisdiction.

15.06.101 Review and Recommendations by the Board of Appeals

The City Planner shall cause to be placed in a newspaper of general circulation in the city, notice of the date, time and place of the Board of Appeals meeting and a description of the property being considered. Such newspaper notice to be at least ten (10) days prior to the Board of Appeals meeting. The Board of Appeals shall conduct a public hearing at such meeting prior to making its decision.

15.07 Amendments

15.07.010 General

The Mayor and Aldermen may, from time to time, amend this Ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original Zoning Ordinance or whenever the public necessity, convenience, and general welfare require such amendment.

15.07.020 Initiation of Amendment

Amendments may be initiated by the Mayor and Aldermen, the Planning Commission or by an application of one or more owners of property affected by the proposed amendment.

15.07.030 Application for Amendment

An application for an amendment shall be accompanied by a fee which shall be set by the Mayor and Aldermen and shall be payable to the City of Gallatin, and shall also be accompanied by maps, drawings, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area and that public necessity, convenience, and general welfare, require the adoption of the proposed amendment. An accurate legal description and scale drawing of the land and existing buildings shall be submitted with the application. In addition to these requirements, applications for amendments requiring the submission of a preliminary master development plan shall be subject to the following provisions:

- A. An application for an amendment that requires the submission of a preliminary master development plan shall be required to follow the provisions of Section 12.02 and 15.07 of this Ordinance. The Mayor and Aldermen's approval of a preliminary master development plan establishing a defined zoning district shall authorize and form the basis for the Planning Commission's final approval of said development. The final approval of the Planning Commission of the development shall be subject to the provisions of Section 12.02.
- B. Amendments initiated by the Mayor and Alderman or the Planning Commission do not require the submission of a preliminary master development plan. The Mayor and Alderman's approval of the amendment shall establish the defined zoning district that will form the basis for the future approval of a preliminary master development plan. Upon approval of the defined zoning district, the Owner may proceed with preparation of preliminary master development plans and specifications for all or for any portion of the project. The preliminary master development plan shall be reviewed and approved according to the provisions of Sections 12.02 and 15.07 of this Ordinance. The Mayor and Aldermen's approval of a preliminary master development plan shall authorize and form the basis for the Planning Commission's final approval of said development. The final approval of the Planning Commission

- of the development shall be subject to the procedures and requirements outlined in Section 12.02.
- C. In order to permit a more flexible zoning option for complex large scale development projects containing over 100 gross acres, the Board of Mayor and Alderman may exempt these applications for amendments from the requirement of the submission of a master development plan as specified in Section 15.07.030.A. The initial application for an amendment for projects containing over 100 gross acres shall contain only the general information specified in Section 15.07.030. The Mayor and Alderman's approval of the amendment shall establish the defined zoning district that will form the basis for the future approval of a preliminary master development plan. Upon approval of the defined zoning district, the Owner may proceed with preparation of preliminary master development plans and specifications for all or for any portion of the project. The preliminary master development plan shall be reviewed and approved according to the provisions of Sections 12.02 and 15.07 of this Ordinance. The Mayor and Aldermen's approval of a preliminary master development plan shall authorize and form the basis for the Planning Commission's final approval of said development. The final approval of the Planning Commission shall be subject to the provisions of Section 12.02.

15.07.040 Review and Recommendations by the Planning Commission

The Planning Commission shall review and make recommendations to the Mayor and Aldermen on all proposed amendments to this Ordinance. The City Planner shall cause to be placed in a newspaper of general circulation in the city, notice of the date, time and place of the Planning Commission meeting and a description of the property being considered or amendment being considered, such newspaper notice to be at least ten (10) days prior to the Planning Commission acting under this Section 15.07.040. The Planning Commission shall conduct a public hearing at such meeting prior to deciding its recommendation.

15.07.050 Grounds for an Amendment

The Planning Commission in its review and recommendation and the Mayor and Aldermen in their deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

- A. The amendment is in agreement with the general plan for the area or in the event of non-agreement with the general plan for the area; the amendment receives the favorable vote of no less than five (5) members of the Aldermen. The following guidelines shall govern the review under the subsection A in the event of non-agreement with the general plan:
 - 1. View the new proposal in the context of the broader community.
 - 2. Evaluate the proposals not only for their impacts on local plans but also on the basis of their potential contribution to the community.

- 3. Developments which are determined to be beneficial for the community, and which have a significant impact on the pattern of development of infrastructure systems or land use patterns, should prompt a review and revision of the Land Use Plan.
- 4. Close coordination with all regulatory agencies of the City government is urged in order to preempt major expenditures on the proposal that could have been anticipated.
- 5. The following potential impacts of the proposal will be examined by the appropriate City departments:
 - (a) Land use compatibility.
 - (b) Transportation and traffic impacts.
 - (c) Sanitary sewer and water demands.
 - (d) Encroachment on the natural environment.
 - (e) Overall environmental impact on adjacent properties (auditory/visual impacts, obnoxious odors, etc.).
 - (f) Storm water runoff hazards.
 - (g) Impacts on community facilities.

All opinions on these matters shall be made in writing to the Mayor and Aldermen by the Planning Commission and City departments prior to its final vote under this subsection A.

- B. It has been determined that the legal purposes for which zoning exists are not contravened;
- C. It has been determined that there will not be adverse effect upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare;
- D. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

15.07.060 Public Hearing and Notice of Hearing

A public hearing shall be held on all proposed amendments to this Ordinance prior to second reading by the Mayor and Aldermen. Notice of such hearing shall be displayed as follows:

- A. The City shall give notice in a newspaper of general circulation within the City of Gallatin at least fifteen (15) days but no more than thirty (30) days prior to the public hearing. This notice shall specify the location, current and proposed zoning classification and it may contain a graphic illustration of the area.
- B. At least fifteen (15) days prior to the second reading before the Mayor and Aldermen the affected property owners and all adjoining property owners, including those separated by a public way shall be notified by the City by mail of the proposed amendment, and the time, date, and place of public hearing.

15.07.070 Notice of Enactment

Upon enactment of an amendment to this Ordinance, a notice of such shall be published in a newspaper of general circulation within the City of Gallatin within seven (7) days following such enactment announcing the new zoning classification of property affected. The change shall become effective upon the date of the announcement.

15.07.080 <u>Amendments Affecting Zoning Map</u>

Upon enactment of an amendment to the zoning map which is part of this Ordinance, the Zoning Administrator shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

15.07.090 <u>Effect of Denial of Application</u>

Whenever an application for an amendment to the text of this Ordinance or for change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one year following such denial, except in the following cases:

- A. Upon initiation by the Mayor and Aldermen, or Planning Commission;
- B. When the new application, although involving all or a portion of the same property, is for a different zoning district than that for which the original application was made;
- C. When the previous application was denied for the reason that the proposed zoning would not conform with the general plan, and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

15.08 Remedies and Enforcement

15.08.010 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided in this Ordinance.

15.08.020 Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punished as provided for by law, and a fine of up to fifty dollars (\$50.00) may be levied. Each day such violation exists shall be deemed a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

15.08.030 Remedies

In case any building or other structure is proposed to be erected, constructed, reconstructed, altered, extended or converted, or any building or other structure or land is or is proposed to be used in violation of this Ordinance, the Zoning Administrator or other appropriate authority of the city government or any adjacent or neighboring property owner who would be especially damaged by such violation may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, conversion or use, to correct or abate such violation, or to prevent the occupancy of such building or other structure or land. Where a violation of these regulations exists with respect to a building or other structure or land, the Zoning Administrator may, in addition to other remedies, notify all public utilities and municipal service departments of such violation and request that initial or re-establishment of service be withheld therefrom until such time as the building or other structure or premises are no longer in violation of these regulations, and each such utility or department shall comply with such request.

ARTICLE 15.00 AMENDMENTS

| Section | Ordinance # | Date |
|----------------|-------------|----------|
| 15.03.020.D | O0010-071 | 11/07/00 |
| 15.03.020.D | O0108-046 | 08/21/01 |
| 15.03.080 | O9812-078 | 01/19/98 |
| 15.06.060 | O9912-061 | 01/04/00 |
| 15.06.060 | O0409-052 | 10/19/04 |
| 15.06.060.E | O0409-052 | 10/19/04 |
| 15.06.060.F | O9912-061 | 01/04/00 |
| 15.06.060.G | O0409-052 | 10/19/04 |
| 15.06.101 | O9901-003 | 02/16/99 |
| 15.07 | O0408-046 | 09/07/04 |
| 15.07.040 | O9901-004 | 02/16/99 |